

REMARKS

By way of summary, 1–2, 9–14, 17–18, 40–41, and 43–58 were pending in this application, with Claims 1 and 40 being independent. The Office Action dated June 22, 2011, rejected the pending claims. By this Amendment, Applicant has amended Claims 1 and 40 and canceled Claims 9, 17, 43, 49, 53–54, and 57–58 without prejudice or disclaimer. Applicant respectfully reserves the right to pursue claims to the previously pending subject matter in one or more continuing applications. Accordingly, Claims 1–2, 10–14, 18, 40–41, and 44–48, 50–52, and 55–56 are currently pending in the application.

Support for the above amendments and for the newly added claims may be found at least at Paragraphs [0013]–[0033] and [0082]–[0092].

Rejections under 35 U.S.C. § 103(a)

Pending Claims 1–2, 10–14, 18, 40–41, and 44–48, 50–52, and 55–56 were rejected under various 35 U.S.C. § 103(a) rejections in the Office Action. By this Amendment, independent Claims 1 and 40 have been amended, and Application submits that these independent claims are in condition for allowance at least because the cited references, alone or in combination, fail to teach or suggest all the recitations of amended independent Claims 1 and 40.

Amended Independent Claim 1

Independent Claim 1 was rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Pat. Appl. Pub. No. 2003/0181973 to Sahota (“Sahota”) in view of “A Hysteresis-Free Platinum Alloy Flexure Material for Improved Performance and Reliability of MEMS Devices” by Brazzle (“Brazzle”) in view of U.S. Pat. No. 6,767,360 to Alt, et al. (“Alt, et al.”) or U.S. Pat.

No. 5,957,929 to Brenneman (“Brenneman”). Applicant submits that amended independent Claim 1 is allowable over the cited references at least because the cited references, alone or in combination, fail to teach or suggest at least a stent that comprises “a self-expandable latticework of struts, the struts (i) each having a thickness and width of less than 0.0028 inches, (ii) providing even wall coverage along the length of the stent, and (iii) providing a stent surface to length ratio from 1.1–1.3 mm²/mm, such that the stent expands with a force equal to or less than 4 atm and has a flexibility such that deflection of 1 mm from a neutral line occurs with less than 8 grams of force,” as now recited in independent Claim 1.

The cited references fail to teach or suggest a stent having a self-expandable latticework of struts, wherein each of the struts has a thickness and width of less than 0.0028 inches. The references further fail to teach or suggest a latticework of struts that provides even wall coverage along the length of the stent and a stent surface to length ratio from 1.1–1.3 mm²/mm. The structural recitations regarding the self-expandable latticework of struts, in combination with other recitations of the claim (e.g., that the stent is made from a platinum:rhodium:ruthenium alloy, comprising a composition of about 75-80% of platinum, 12-18% of rhodium and 5-10% of ruthenium, and has a sidewall thickness between about 0.0012 inches and 0.0028 inches), contribute to the stent’s ability to expand with a force equal to or less than 4 atm and have a flexibility such that deflection of 1 mm from a neutral line occurs with less than 8 grams of force. Applicant respectfully submits that the cited references, alone or in combination, fail to teach or suggest each of these and other recitations of amended independent Claim 1. Accordingly, Applicant respectfully requests withdrawal of the § 103 rejection of Claim 1.

Claims 2, 10–14, 18, and 51–52 depend from amended independent Claim 1, and Applicant submits these claims are in condition for allowance for at least the same reasons set

forth above with respect to amended independent Claim 1, in addition to the patentable subject matter recited in each of these dependent claims. Accordingly, Applicant respectfully requests withdrawal of the rejections of these dependent claims.

Amended Independent Claim 40

Independent Claim 40 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Sahota in view of Alt or Brenneman in view of “The Resistance to Fatigue Crack Growth of the Platinum Metals” by Speidel (“Speidel”). Applicant submits that amended independent Claim 40 is allowable over the cited references at least because the cited references, alone or in combination, fail to teach or suggest at least a stent that comprises “a self-expandable latticework of struts, the struts (i) each having a thickness and width of less than 0.0028 inches, (ii) providing even wall coverage along the length of the stent, and (iii) providing a stent surface to length ratio from 1.1–1.3 mm²/mm, such that the stent expands with a force equal to or less than 4 atm and has a flexibility such that deflection of 1 mm from a neutral line occurs with less than 8 grams of force,” as now recited in independent Claim 40.

The cited references fail to teach or suggest a stent having a self-expandable latticework of struts, wherein each of the struts has a thickness and width of less than 0.0028 inches. The references further fail to teach or suggest a latticework of struts that provides even wall coverage along the length of the stent and a stent surface to length ratio from 1.1–1.3 mm²/mm. The structural recitations regarding the self-expandable latticework of struts, in combination with other recitations of the claim (e.g., that the stent is made from a platinum:rhodium alloy, comprising a composition of about 65–75% of platinum and 25–35% of rhodium, and has a sidewall thickness between about 0.0012 inches and 0.0028 inches), contribute to the stent’s ability to expand with a force equal to or less than 4 atm and have a flexibility such that

deflection of 1 mm from a neutral line occurs with less than 8 grams of force. Applicant respectfully submits that the cited references, alone or in combination, fail to teach or suggest each of these and other recitations of amended independent Claim 40. Accordingly, Applicant respectfully requests withdrawal of the § 103 rejection of Claim 40.

Claims 41, 44–48, 50, and 55–56 depend from amended independent Claim 40, and Applicant submits these claims are in condition for allowance for at least the same reasons set forth above with respect to amended independent Claim 40, in addition to the patentable subject matter recited in each of these dependent claims. Accordingly, Applicant respectfully requests withdrawal of the rejections of these dependent claims.

CONCLUSION

In view of the foregoing comments, it is respectfully submitted that the present application is fully in condition for allowance, and that such action is earnestly solicited. If any questions remain, however, the Examiner is cordially invited to contact the undersigned attorney so that any such matters may be promptly resolved.

Applicant respectfully submits that the claims are in condition for allowance and have made a good faith effort to respond to the outstanding Office Action. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is cordially invited to contact Applicant's attorney, at the telephone number below, to resolve any such issues promptly.

Any remarks in support of patentability of one claim should not necessarily be imputed to any other claim, even if similar terminology is used. Any remarks referring to only a portion of a claim should not necessarily be understood to base patentability on solely that portion; rather, patentability must rest on each claim taken as a whole. Applicant respectfully reserves the right to traverse any of the Examiner's rejections or assertions, even if not discussed herein. Applicant respectfully reserves the right to challenge later whether any of the cited references are prior art. Applicant hereby renews all arguments previously made in response to characterizations or assumptions made by the Examiner in prior office actions. Although changes to the claims have been made, no acquiescence or estoppel is implied thereby; such amendments are made only to expedite prosecution of the present application and are without

Application No.: 10/578,806

prejudice to the presentation or assertion, in the future, of claims relating to the same or similar subject matter.

Please charge any shortage in fees due in connection with the filing of this paper, including extension-of-time fees, to Deposit Account 502624, and please credit any excess fees to that deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP

/M. Todd Hales/

M. Todd Hales
Registration No. 60,472

18191 Von Karman Ave., Suite 500
Irvine, CA 92612-7108
Phone: 949.851.0633 MTH:sv
Facsimile: 949.851.9348
Date: December 21, 2011

**Please recognize our Customer No. 31824
as our correspondence address.**

DM_US 29269681-1.077567.0018